

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK DANIEL LOMASNEY,

Plaintiff,

v.

OLD NATIONAL BANK,

Defendant.

Case No. 1:24-cv-359

Hon. Robert J. Jonker

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ORDER APPROVING AND ADOPTING REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Berens’s Report and Recommendation filed on April 10, 2024 recommending that the Court dismiss this action for lack of subject matter jurisdiction. (ECF No. 4). The Magistrate Judge’s Report and Recommendation was duly served on the parties. No objections have been filed under 28 U.S.C. § 636(b)(1)(C).

While Plaintiff Lomasney did not file any objections to the Report and Recommendation, on April 24, he did file an Amended Complaint, (ECF No. 6), and a “Legal Demand Affidavit for Delegation of Authority,” (ECF No. 7). Neither changes the Court’s analysis. In his Amended Complaint, Lomasney reasserts the Defend Trade Secrets Act (“the DTSA”) as a basis for federal question jurisdiction, as well as 28 U.S.C. § 3002(3), 15 U.S.C. § 1602, and 31 U.S.C. § 3123. But the substantive allegations in his Amended Complaint are materially identical to those in his original Complaint, and as Judge Berens explained, Lomasney’s apparent claim that his mortgage is a trade secret is “implausible, unsubstantial, and devoid of merit” because a mortgage “is the antithesis of a trade secret.” (ECF No. 4 at PageID.12). Lomasney’s citations to §§ 3022(3), 1602, and 3123 do not establish subject matter jurisdiction, either. Sections 3022(3) and 1602 merely

define terms utilized in various federal statutes, and § 3123—which obligates the Secretary of the Treasury to pay the United States’s public debt—is completely inapplicable to this dispute.

ACCORDINGLY, IT IS ORDERED that:

1. The Report and Recommendation of the Magistrate Judge, (ECF No. 4), is **APPROVED AND ADOPTED** as the opinion of the Court.
2. This matter is **DISMISSED** for lack of subject matter jurisdiction. Because this Court lacks subject matter jurisdiction, it cannot enter a default judgment, so any discussion of Lomasney’s May 28, 2024 Motion for Default against Defendant Old National Bank, (ECF No. 8), is unnecessary.
3. This matter is **TERMINATED**.

IT IS SO ORDERED.

Dated: June 11, 2024

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE